

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CYNTHIA FINLEY
Plaintiff,

V

**LANDSTAR INWAY, INC. and
KENNETH RAY LEYDIG**
Defendants

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:22-cv-432

INDEX OF PLEADINGS FILED IN THE STATE COURT ACTION


TO THE UNITED STATES DISTRICT CLERK:

Pursuant to 28 U.S.C. § 1447(b), attached hereto are complete true and correct copies of all documents filed in the state court action:

- (1) Ellis County Docket Sheet
- (2) Plaintiff's Original Petition (01/18/2022)
- (3) Service Request Form (01/19/2022)
- (4) Citations to Attorney for Services
- (5) Executed Service of Citation for Landstar Inway, Inc. (01/26/2022)
- (6) Executed Service of Citation for Kenneth Ray Leydig (02/22/2022)
- (7) Defendants' Original Answer (02/23/2022)

Respectfully submitted,

COX P.L.L.C.



Clinton Cox

State Bar No. 24040738

ccox@coxpllc.com

Joel A. Richmond

State Bar No. 24065974

jrichmond@coxpllc.com

8144 Walnut Hill Lane, Suite 1090

Dallas, Texas 75231

[Tel] (214) 444-7050

[Fax] (469) 340-1884

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing instrument has been served to all attorneys of record in the above-entitled and numbered cause, in accordance with the Federal Rules of Civil Procedure on this the 23rd day of February 2022.

/s/ Joel Richmond
Joel Richmond

Case Information

FINLEY, CYNTHIA -VS- LANDSTAR INWAY, INC. LEYDIG, KENNETH RAY

107534

Location	Case Category	Case Type	Case Filed Date
Ellis County - District Clerk	Civil - Injury or Damage	Motor Vehicle Accident	1/18/2022

Parties3

Type	Name	Attorneys
Plaintiff	FINLEY, CYNTHIA	WILLIAMS, KYLE D.
Defendant	LANDSTAR INWAY, INC.	Clint Cox
Defendant	LEYDIG, KENNETH RAY	Clint Cox

Events6

Date	Event	Type	Comments	Documents
1/18/2022	Filing	Petition	Plaintiff's Original Petition	Plaintiff's Original Petition.pdf
1/19/2022	Filing	Request	Citation Request Form	Request for Issuance.pdf
1/20/2022	Filing	E-filed Attorney	RTN CITS TO ATTY FOR SERVICE	107534CITS.PDF
1/26/2022	Filing	NO FEE DOCUMENTS	LANDSTAR INWAY INC	LANDSTAR INWAY INC.pdf
2/22/2022	Filing	NO FEE DOCUMENTS	KENNETH RAY LEYDIG	KENNETH RAY LEYDIG.pdf
2/23/2022	Filing	Answer/Response	Defendants' Original Answer and Affirmative Defenses	Defendants' Original Answer.pdf



107534
 CAUSE NO. _____

CYNTHIA FINLEY	§	IN THE DISTRICT COURT
<i>plaintiff,</i>	§	
	§	
	§	40TH
VS.	§	_____ JUDICIAL DISTRICT
	§	
LANDSTAR INWAY, INC. AND KENNETH	§	
RAY LEYDIG	§	ELLIS COUNTY, TEXAS
<i>defendant.</i>		

PLAINTIFF'S ORIGINAL PETITION

PLAINTIFF, CYNTHIA FINLEY files this Original Petition and states the following:

I.
CLAIMS FOR RELIEF

Plaintiff brings this action under Tex. R. Civ. P. 47(c)(3) (monetary relief of more than \$250,000.00 but less than \$1,000,000.00) Plaintiff request that this matter be governed by a "Level 2" discovery plan.

II.
PARTIES

Plaintiff CYNTHIA FINLEY is an individual residing in Dallas County, Texas.

Defendant LANDSTAR INWAY, INC. is foreign, for-profit corporation doing business, engaging in business, and/or transacting business in the State of Texas. It is sued in its common name or assumed name pursuant to Tex.R.Civ.P.28 which provides that any partnership, unincorporated association, private corporation, or individual doing business under an assumed name may be sued in its partnership, assumed, or common name. It may be served with citation and process in this cause by serving its registered agent, CT

CORPORATION SYSTEM, 1999 BRYAN STREET, SUITE 900, DALLAS, TEXAS 75201.

Defendant KENNETH RAY LEYDIG is a nonresident, out of state motorist with a residence in Port Orange, Florida. Pursuant to Texas Civil Practice and Remedies Code 17.061, Defendant can be served with process via Defendant's agent for service – the CHAIR OF THE TEXAS TRANSPORTATION COMMISSION, who may be found at –

J. BRUCE BUGG, JR., CHAIRMAN
TEXAS TRANSPORTATION COMMISSION
125 E. 11TH STREET
AUSTIN, TEXAS 78701-2483

III.
VENUE AND JURISDICTION

Venue is proper in this Court because Ellis County, Texas is the location where all or a substantial part of the events or omissions giving rise to the claim occurred. Furthermore, this Court has jurisdiction in that the damages claimed are within the jurisdictional limits of this Court.

IV.
FACTS

Plaintiffs would show that on or about March 31, 2020, Plaintiff was in a vehicle driving in Ellis County, Texas. Suddenly and without warning, a vehicle driven Kenneth Ray Leydig, an employee of Defendant Landstar Inway, Inc. collided with the Plaintiff's vehicle. Defendant Leydig's negligence was the proximate cause of the collision. This collision caused Plaintiff to suffer serious injuries and damages.

V.
CAUSES OF ACTION

A. NEGLIGENCE of KENNETH RAY LEYDIG

Defendant KENNETH RAY LEYDIG was negligent as follows:

- (a) In failing to keep a proper lookout;
- (b) In failing to make a timely and proper application of the brakes;
- (c) In failing to take proper evasive action to avoid the collision;
- (d) In failing to maintain a reasonable speed, or failing to control speed;
- (e) In failing to maintain control of the vehicle.

Each of these acts and omissions, singularly or in combination with others, constituted negligence which proximately caused the occurrence made the basis of Plaintiff's action and Plaintiff's injuries and damages.

VI.
RESPONDEAT SUPERIOR

For additional cause of action, Plaintiff alleges that each and every named Defendant Landstar Inway, Inc. is liable for the wrongful actions or omissions of its employees, agents, or servants according to the doctrine of *respondeat superior*.

Plaintiff would show that all relevant times Defendant's employee was in the course and scope of his employment with Defendant Landstar Inway, Inc. and was acting in furtherance of the business of said Defendant.

VII.
NEGLIGENT ENTRUSTMENT

Defendant Landstar Inway, Inc. was guilty of negligent entrustment in that it

entrusted the vehicle to its employee. Landstar Inway, Inc. knew or should have known that its employee, was incapable of safely operating the vehicle in question in that he was an incompetent and/or reckless driver and that its employee's operation of the vehicle would endanger the health and safety of persons such as Plaintiff.

VIII.
NEGLIGENT HIRING AND RETENTION

Plaintiff would show that Defendant, Landstar Inway, Inc. was negligent in hiring the driver as an employee and was negligent in retaining him as an employee. Such negligence was a proximate cause of the collision and the significant of injuries and damages to Plaintiff.

IX.
NEGLIGENT SUPERVISION AND TRAINING

Plaintiff would show that Defendant was negligent in failing to properly train and supervise its driver, an employee. Such negligence was a proximate cause of the collision as well as Plaintiff's injuries and damages.

X.
DAMAGES

Plaintiff CYNTHIA FINLEY seeks damages for the following:

- a. Medical Expenses: Past and Future;
- b. Physical Pain and Suffering: Past and Future;
- c. Mental Anguish: Past and Future;
- d. Physical Impairment/Disability: Past and Future;
- e. Lost wages: Past;

f. Property Damage

XI.
NOTICE OF INTENT

Pursuant to Tex. R. Civ. P. 193.7, Plaintiff intends to use documents produced by Defendants in writing at any pretrial conference and/or trial of the above-referenced matter. Plaintiff also intends to use such documents as proof of support or oppose any summary judgment pursuant to Tex. R. Civ. P. 166a(d).

XII.
REQUEST FOR JURY TRIAL

Plaintiff in the above-entitled and numbered cause has requested a jury trial. Plaintiff has tendered appropriate fees.

XIII.
RELIEF SOUGHT

Plaintiff requests that this case be tried after which Plaintiff recovers:

1. Judgment against Defendant for a sum within the jurisdictional limits of the Court for the damages indicated above;
2. Pre-judgment and post-judgment interest at the maximum amount allowed by law;
3. Costs of suit;
4. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully Submitted,

JOHNSON, ZEGEN, SCOTT AND WILLIAMS, PLLC

BY: */s/ Kyle D. Williams*

KYLE D. WILLIAMS

State Bar No. 24072815

12222 Merit Drive, Suite 1203

Dallas, Texas 75251

(214) 295-2900, phone

(214) 265-7626, fax

ATTORNEY FOR PLAINTIFF

ELLIS COUNTY DISTRICT CLERK

(972)825-5091

REQUEST FOR ISSUANCE – E-FILING OR PRO SE

CITATIONS, PRECEPTS, NOTICES, WRITS, TRO'S**PLEASE USE OTHER REQUEST FORMS (FOUND ON OUR WEBSITE) FOR ANY OTHER TYPE OF ISSUANCE**

- This document MUST be filed as a separate LEAD document when e-filing.
- Issuance will NOT be done until this completed form is received.
- Choose the filing code "Request" (if able), then select the type of issuance under "Optional Services".
- If a service document is required, you MUST add the copy fees under "Optional Services" & enter the quantity of pages for each document to be served.

CAUSE NUMBER: _____

TITLE OF DOCUMENT/S TO BE SERVED: _____

STYLE OF CASE: _____

PLEASE SELECT BELOW THE TYPE AND QUANTITY OF ISSUANCE/S NEEDED:

TYPE	COST	QUANTITY	TYPE	COST	QUANTITY
Citation	\$8	_____	Writ: Execution	\$8	_____
Precept / Notice	\$8	_____	Writ: Commitment	\$8	_____
Temp Restraining Order	\$8	_____	Writ: Garnishment	\$8	_____
Scire Facias	\$8	_____	Writ: Sequestration	\$8	_____
Writ: Attachment	\$8	_____	Writ: Turnover	\$8	_____
Writ: Possession	\$8	_____	Writ: Other	\$8	_____

Requestor Name: _____

Requestor Phone No.: _____

E-Mail: _____

(This e-mail address should be listed by you under "Service Contacts" in e-filing.)**EXHIBIT 3**

All Issuance will be e-filed back to the e-mail address listed on page 1 unless otherwise indicated by choosing one of the following:

I am Pro Se and will pick up my issuance. This option is ONLY available if Pro-Se.

Service by Certified Mail – Please pay for service copy under “Optional Services”.

I would like restricted certified mail: Y N

Service by Sheriff or Constable – Please pay for service copy under “Optional Services”.

Sheriff Const., Pct 1 Const., Pct 2 Const., Pct 3 Const., Pct 4

Posting – A Motion & Order are required. Please pay for a service copy under “Optional Services”.

Publication – A Motion & Order are required. Which publication: _____

Service Information:

NAME OF PARTY TO BE SERVED: _____ **Type of Issuance:** _____

Address for service (include registered agent of applicable):

NAME OF PARTY TO BE SERVED: _____ **Type of Issuance:** _____

Address for service (include registered agent if applicable):

NAME OF PARTY TO BE SERVED: _____ **Type of Issuance:** _____

Address for service (include registered agent if applicable):

IF THERE ARE MORE PARTIES TO BE SERVED, PLEASE USE THE 2ND PAGE OF AN ADD’L REQUEST FORM. THANK YOU

THE STATE OF TEXAS
COUNTY OF ELLIS
CAUSE NO: 107534
CITATION

TO: LANDSTAR INWAY, INC.
REG. AGENT: CT CORPORATION SYSTEM
1999 BRYAN ST, STE 900
DALLAS, TX 75201

DEFENDANT, in the hereinafter styled and numbered cause: 107534

You are hereby commanded to appear before 40TH JUDICIAL DISTRICT COURT of ELLIS COUNTY, TEXAS to be held at the courthouse of said county in the City of Waxahachie, County of Ellis County, Texas, by filing a written answer to the petition of PLAINTIFF at or before 10:00 A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number **107534** styled

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC. AND
LEYDIG, KENNETH RAY

Filed in said court on the 01/18/2022

The name and address of the attorney for PLAINTIFF, or the address of the PLAINTIFF is: KYLE D. WILLIAMS , 12222 MERIT DR, STE 1203, DALLAS, TX 75251.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TEXASLAWHELP.ORG."

WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 20th day of January, 2022.

SEAL

Melanie Reed, District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

By 
Mary Hinds, Deputy



EXHIBIT 4

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC.
LEYDIG, KENNETH RAY

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

NAME AND ADDRESS FOR SERVICE:

LANDSTAR INWAY, INC.
REG. AGENT: CT CORPORATION SYSTEM
1999 BRYAN ST, STE 900
DALLAS, TX 75201

Came to hand on the ____ day of _____, 20____, at _____, o'clock ____m., and executed in _____ County, Texas by delivering to the within named defendants, in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--------------------------------------------

And not executed as to the defendant(s), _____

The cause or failure to execute this process and the diligence used in finding said defendant(s) being:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____
Total \$ _____

_____, Sheriff, Constable, or Court Clerk ONLY
(All others below)

_____, County, Texas

By: _____, Deputy

_____, Affiant

COMPLETE AND SIGN IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and my address is _____
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # & expiration of certification)

RETURN TO:

Melanie Reed Ellis County District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

STATE OF TEXAS §
COUNTY OF ELLIS §
SIGNED under oath before me on this ____ day of _____, 20____.

Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF ELLIS
CAUSE NO: 107534
CITATION

TO: LEYDIG, KENNETH RAY
AGENT FOR SERVICE: J. BRUCE BUGG, JR, CHAIRMAN, TX TRANSPORTATION COMMISSION
125 E. 11TH ST
AUSTIN, TX 78701-2483

DEFENDANT, in the hereinafter styled and numbered cause: 107534

You are hereby commanded to appear before 40TH JUDICIAL DISTRICT COURT of ELLIS COUNTY, TEXAS to be held at the courthouse of said county in the City of Waxahachie, County of Ellis County, Texas, by filing a written answer to the petition of PLAINTIFF at or before 10:00 A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number **107534** styled

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC. AND
LEYDIG, KENNETH RAY

Filed in said court on the 01/18/2022

The name and address of the attorney for PLAINTIFF, or the address of the PLAINTIFF is: KYLE D. WILLIAMS , 12222 MERIT DR, STE 1203, DALLAS, TX 75251.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TEXASLAWHELP.ORG."

WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 20th day of January, 2022.

Melanie Reed, District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

SEAL

By 
Mary Hinds, Deputy



FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC.
LEYDIG, KENNETH RAY

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

NAME AND ADDRESS FOR SERVICE:

LEYDIG, KENNETH RAY
AGENT FOR SERVICE: J. BRUCE BUGG, JR, CHAIRMAN, TX TRANSPORTATION COMMISSION
125 E. 11TH ST
AUSTIN, TX 78701-2483

Came to hand on the _____ day of _____, 20____, at _____, o'clock ____m., and executed in _____ County, Texas by delivering to the within named defendants, in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), _____

The cause or failure to execute this process and the diligence used in finding said defendant(s) being:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____	_____, Sheriff, Constable, or Court Clerk ONLY
Total \$ _____	(All others below)
	_____, County, Texas
	By: _____, Deputy
	_____, Affiant

COMPLETE AND SIGN IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____, and my address is _____
(First, Middle, Last)

(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the _____ day of _____.

Declarant/Authorized Process Server

(Id # & expiration of certification)

RETURN TO:

Melanie Reed Ellis County District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

STATE OF TEXAS §
COUNTY OF ELLIS §
SIGNED under oath before me on this _____ day of _____, 20____.

Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF ELLIS
CAUSE NO: 107534
CITATION

TO: LANDSTAR INWAY, INC.
REG. AGENT: CT CORPORATION SYSTEM
1999 BRYAN ST, STE 900
DALLAS, TX 75201

DEFENDANT, in the hereinafter styled and numbered cause: 107534

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FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC. AND
LEYDIG, KENNETH RAY

Filed in said court on the 01/18/2022

The name and address of the attorney for PLAINTIFF, or the address of the PLAINTIFF is: KYLE D. WILLIAMS , 12222 MERIT DR, STE 1203, DALLAS, TX 75251.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TEXASLAWHELP.ORG."

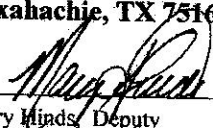
WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 20th day of January, 2022.

SEAL

Melanie Reed, District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

By


Mary Hinds, Deputy

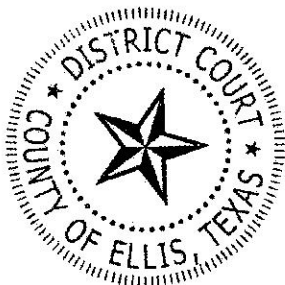


EXHIBIT 5

SERVICE RETURN - CAUSE # 107534

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC.
LEYDIG, KENNETH RAY

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

NAME AND ADDRESS FOR SERVICE:

LANDSTAR INWAY, INC.
REG. AGENT: CT CORPORATION SYSTEM
1999 BRYAN ST, STE 900
DALLAS, TX 75201

Came to hand on the 21st day of January, 20 22, at 6:00 o'clock P.m., and executed in DALLAS County, Texas by delivering to the within named defendants, in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
LANDSTAR INWAY INC, E/S ITS REG, CT CORPORATION SYSTEM, THROUGH GEORGE MARTINEZ	1/24/22 2:34pm	1999 BRYAN ST, STE 900, DALLAS, TX 75201

And not executed as to the defendant(s), _____

The cause or failure to execute this process and the diligence used in finding said defendant(s) being:

and the information received as to the whereabouts of said defendant(s) being:

FEES:

Serving Petition and Copy \$ _____, Sheriff, Constable, or Court Clerk ONLY
Total \$ _____ (All others below)
_____, County, Texas
By: _____, Deputy
_____, Affiant

COMPLETE AND SIGN IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is STEVEN J. FRIEDENTHAL, my date of birth is 4/23/62, and my address is
(First, Middle, Last)
5417 WHEATWOOD CT, THE COLONY, TX 75056
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

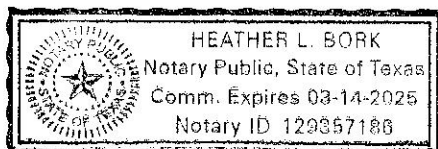
Executed in DALLAS County, State of TX, on the 25th day of JANUARY 2022.

[Signature]
Declarant/Authorized Process Server
18830 Ex 10/31/22
(Id # & expiration of certification)

RETURN TO:

Melanie Reed Ellis County District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

STATE OF TEXAS §
COUNTY OF ELLIS §
SIGNED under oath before me on this 25 day of



[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF ELLIS
CAUSE NO: 107534
CITATION

TO: LEYDIG, KENNETH RAY
AGENT FOR SERVICE: J. BRUCE BUGG, JR, CHAIRMAN, TX TRANSPORTATION COMMISSION
125 E. 11TH ST
AUSTIN, TX 78701-2483

DEFENDANT, in the hereinafter styled and numbered cause: 107534

You are hereby commanded to appear before 40TH JUDICIAL DISTRICT COURT of ELLIS COUNTY, TEXAS to be held at the courthouse of said county in the City of Waxahachie, County of Ellis County, Texas, by filing a written answer to the petition of PLAINTIFF at or before 10:00 A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number 107534 styled

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC. AND
LEYDIG, KENNETH RAY

Filed in said court on the 01/18/2022

The name and address of the attorney for PLAINTIFF, or the address of the PLAINTIFF is: KYLE D. WILLIAMS , 12222 MERIT DR, STE 1203, DALLAS, TX 75251.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorneys do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of 20 days after you were served this citation and petition, a Default Judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TEXASLAWHELP.ORG."

WITNESS: Melanie Reed, District Clerk of the District Court of Ellis County, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT COUNTY OF ELLIS, TEXAS, ON THIS THE 20th day of January, 2022.

Melanie Reed, District Clerk
109 S. Jackson Street Rm. 209
Waxahachie, TX 75165

SEAL

By


Mary Hinds, Deputy

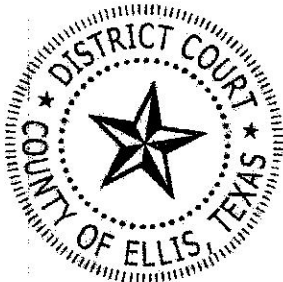


EXHIBIT 6

SERVICE RETURN - CAUSE # 107534

FINLEY, CYNTHIA
-VS-
LANDSTAR INWAY, INC.
LEYDIG, KENNETH RAY

IN THE 40TH JUDICIAL DISTRICT COURT
OF
ELLIS COUNTY, TEXAS

NAME AND ADDRESS FOR SERVICE:

LEYDIG, KENNETH RAY
AGENT FOR SERVICE: J. BRUCE BUGG, JR, CHAIRMAN, TX TRANSPORTATION COMMISSION
125 E. 11TH ST
AUSTIN, TX 78701-2483

Came to hand on the 28th day of January, 2022, at 6:00 o'clock P.m., and executed in Travis County, Texas by delivering to the within named defendants, in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
<u>Kenneth Ray Leydig</u>	<u>1/28/22</u> <u>6:29am</u>	<u>125 E 11th Street Austin</u> <u>Texas 78701</u>

And not executed as to the defendant(s), _____

The cause or failure to execute this process and the diligence used in finding said defendant(s) being:

and the information received as to the whereabouts of said defendant(s) being:

By CMR/RZ # 7021 19700000582248030
FEES: _____, Sheriff, Constable, or Court Clerk ONLY
 Serving Petition and Copy \$ _____ (All others below)
 Total \$ 75 _____, County, Texas
 By: [Signature] Deputy
 _____, Affiant

COMPLETE AND SIGN IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is Daisy Garcia, my date of birth is 4-22-1996, and my address is
 (First, Middle, Last)
5930 LBJ Freeway #307 Dallas TX 75240
 (Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in Travis County, State of TX, on the 28th day of January 2022


[Signature]
 Declarant/Authorized Process Server
KALA Exp 6/30/23
 (Id # & expiration of certification)

RETURN TO:

Melanie Reed Ellis County District Clerk
 109 S. Jackson Street Rm. 209
 Waxahachie, TX 75165

STATE OF TEXAS §
 COUNTY OF ELLIS §
 SIGNED under oath before me on this _____ day of _____, 20____.

 Notary Public, State of Texas

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to: <i>Kenneth Ray Layden</i> ORTATION COMMISSION ATTN: CHAIRMAN 125 E. 11th STREET AUSTIN, TEXAS 78701-2483</p>  9590 9402 4972 9063 3810 06	<p>A. Signature X <i>Randall Todd</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Randall Todd</i> C. Date of Delivery <i>Feb 8 2022</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>		
<p>2. Article Number (Transfer from service label) 7021 1970 0000 8224 8030</p>	<p>3. Service Type</p> <table style="width: 100%;"> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) </td> <td style="vertical-align: top;"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table>	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery		

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053

CAUSE NO. 107534

CYNTHIA FINLEY	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
V	§	40th JUDICIAL DISTRICT
	§	
LANDSTAR INWAY, INC. and	§	
KENNETH RAY LEYDIG	§	
<i>Defendants.</i>	§	ELLIS COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Landstar Inway, Inc. and Kenneth Ray Leydig, Defendants in the above-styled cause, and file this, their Original Answer to Plaintiff's Original Petition. By way of same, Defendants would respectfully show the Court the following:

I.
GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny each and every, all and singular, the allegations contained in Plaintiff's Original Petition and, being allegations of fact, demand strict proof thereof by a preponderance of the evidence.

II.
AFFIRMATIVE DEFENSES

2. Defendants contend that the alleged accident made the basis of this lawsuit and the alleged damages, if any, were caused by the negligence of persons or third-parties over whom Defendants had no control, and for whom Defendants are not in law responsible. Such negligence was the sole cause or, alternatively, a proximate cause of the alleged occurrence in question and the alleged damages, if any.

EXHIBIT 7

3. Pleading further, Defendants raise the affirmative defense of proportionate responsibility pursuant to Tex. Civ. Prac. & Rem. Code §33.001. Specifically, Defendants would show that at the time and on the occasion in question, Plaintiff Cynthia Finley failed to exercise that degree of care and caution that would have been exercised by a person of ordinary prudence, under the same or similar circumstances. Accordingly, Cynthia Finley's acts and/or omissions constitute negligence, and such negligence was the sole cause, or in the alternative, a proximate cause of the accident in question, and the damages and injuries, if any, sustained by Plaintiff herein. Therefore, Plaintiff is barred, in whole or in part, from a recovery of damages from Defendants.

4. Pleading further, and in the alternative, Defendants would show the damages alleged in Plaintiff's Petition, if any, were the result of a superseding and/or independent intervening cause, and Plaintiff cannot therefore provide a basis for any recovery against Defendant.

5. Defendants affirmatively plead that this was an unavoidable accident.

6. Further answering, if same be necessary, and without waiving any of the matters hereinabove asserted, Defendants would show that Plaintiff's claims of physical and/or mental ailments in this cause were, in whole or in part, proximately caused solely and/or proximately by prior and/or subsequent accidents, events, or occurrences.

7. Defendants further plead that Plaintiff's damages, if any, were caused by an intervening cause, and/or new and independent cause which broke any causal connection between Defendants' acts and/or omissions and Plaintiff's damages. The intervening cause, and/or new independent cause was unforeseeable and a superseding cause of Plaintiff's damages, if any. Therefore, Defendants are not liable for such damages.

8. Defendants further affirmatively pleads that Plaintiff failed to mitigate her claimed damages.

III.
LIMITATIONS ON DAMAGES

9. Defendants invoke Section 18.091 of the Texas Civil Practice and Remedies Code. To the extent Plaintiff seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value or loss of inheritance, the evidence to prove such loss must be presented in the form of net loss after reduction of income tax payments or unpaid tax liability. Defendants further request the court to instruct the jury as to whether any recovery for compensatory damages sought by Plaintiff is subject to federal or state income taxes.

10. Defendants further invoke Section 41.0105 of the Texas Civil Practice and Remedies Code. To the extent Plaintiff seeks recovery of medical or healthcare expenses incurred, the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiff. Defendants request the court to instruct the jury as to whether any recovery for medical or healthcare expenses sought by Plaintiff is limited to the amount actually paid or incurred by or on behalf of Plaintiff.

11. Defendants further invoke the protections and limitations of Texas Finance Code sections 304.103, 304.1045, and 304.003, relating to any award of pre- and/or post-judgment interest.

12. Defendants reserve the right to amend or supplement this Answer, at a later time in the proceedings.

IV.
DEMAND FOR JURY TRIAL

13. Defendants hereby demand a trial by jury.

V.
NOTICE OF INTENT

14. Defendants hereby give notice of intent to utilize items produced in discovery in the trial of this matter and the authenticity of such items is self-proven per the Texas Rules of Civil Procedure, 193.7.

VI.
REQUEST FOR DEPOSITIONS

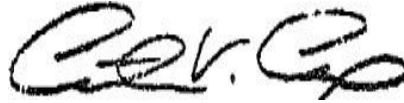
15. Should this matter not be dismissed or adjudicated by preliminary motion, Defendants hereby request dates for the depositions of Plaintiff, Plaintiff's family and friends, experts, medical providers, as well as any accident or pre-accident witnesses. Defendants envision such depositions will need to be taken after reasonable time for written discovery, including Defendants being provided, or seeking through subpoena, the relevant records related to this accident and Plaintiff's alleged damages.

VII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants Landstar Inway, Inc. and Kenenth Ray Leydig pray that Plaintiff takes nothing by this suit; and that Defendants go hence without delay and recover all costs expended on their behalf. Praying further, Defendants pray for such other and further relief, either at law or in equity, to which Defendants may be justly entitled.

Respectfully submitted,

COX P.L.L.C



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Dallas, Texas 75231

Tel: (214) 444-7050

Fax: (469) 340-1884

**ATTORNEYS FOR DEFENDANTS
LANDSTAR INWAY, INC AND
KENNETH RAY LEYDIG**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been served on all attorneys of record, pursuant to the Texas Rules of Civil Procedure, on this the 23rd day of February 2022.

/s/ Joel Richmond

Joel Richmond

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Donna Gordon on behalf of Joel Richmond
Bar No. 24065974
dgordon@coxpllc.com
Envelope ID: 62002167
Status as of 2/23/2022 11:18 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kyle Williams	24072815	kyle@jzswlaw.com	2/23/2022 11:09:53 AM	SENT